

**MINUTES**  
**Town of Crested Butte**  
**Regular Town Council Meeting**  
**Monday, March 1, 2021**

Mayor Schmidt called the meeting to order at 7:00PM.

Council Members Present: Will Dujardin, Chris Haver, Mona Merrill, Mallika Magner, Laura Mitchell, and Jason MacMillan

Staff Present: Town Manager Dara MacDonald, Town Attorneys John Sullivan and Barbara Green, and Public Works Director Shea Earley

Town Clerk Lynelle Stanford, Chief Marshal Mike Reily, Community Development Director Troy Russ, Parks, Recreation, Trails and Open Space Director Janna Hansen, Town Planner II Jessie Earley, Building Official Astrid Matison, Principal Planner Molly Minneman, and Finance Director Rob Zillioux (for part of the meeting)

Everyone connected and participated in the meeting via Zoom. MacDonald and Stanford were present in Council Chambers.

Schmidt mentioned the preceding work session on the Community Compass presented by Russ.

**APPROVAL OF AGENDA**

Mitchell moved and Haver seconded a motion to approve the agenda as submitted. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**CONSENT AGENDA**

**1) February 16, 2021 Regular Town Council Meeting Minutes.**  
*Staff Contact: Town Clerk Lynelle Stanford*

**2) Amendment to Declaration of Protective Covenants of the McCormick Ranch Regarding Rentals.**  
*Staff Contact: Town Manager Dara MacDonald*

Mitchell moved and Haver seconded a motion to approve the Consent Agenda. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**PUBLIC COMMENT**

None

**STAFF UPDATES**

- Schmidt asked whether there were additions to the Manager's Report.
- Schmidt questioned the Avalanche Park tree mitigation. He confirmed the project would substantially thin out the trees. He wondered whether the landowner next door was involved.
- Schmidt noted sales tax was up 15% in January.
- MacDonald brought up Haver's question regarding a (Zoom) participant becoming a panelist during a meeting. She confirmed that as a panelist, a person could then share video.
- Schmidt asked about returning to Council Chambers for meetings. MacDonald said people could let her know their thoughts.
- Dujardin asked about office location changes in Town Hall, which MacDonald reviewed.
- Schmidt questioned Town Hall's status related to being open to the public. He confirmed someone was at the window at the Marshal's Office.

### **LEGAL MATTERS**

None

### **PUBLIC HEARING**

**1) Ordinance No. 1, Series 2021 - An Ordinance of the Crested Butte Town Council Authorizing the Town to Enter Into a Lease Agreement with Region 10 League for Economic Assistance and Planning, Inc., for the Crested Butte Carrier Neutral Location on Town Owned Property Located at 508 Maroon Ave., Crested Butte, Colorado.**

***Staff Contact: Town Manager Dara MacDonald***

Schmidt read the title of the ordinance. MacDonald stated there had been no changes from the last meeting. The ordinance represented the continuation of efforts to introduce Internet redundancy. The project would include installation of a carrier neutral location (CNL) in the Marshals'/KBUT building, a generator for power back up, and a tower. The lease required that BOZAR approval would be necessary.

Virgil Turner, from Region 10, was on Zoom. He was happy to answer any questions. Schmidt asked about the height of the tower compared to the present antennas on the roofline.

Schmidt confirmed proper public notice had been given. He opened the public hearing. There were no members of the public who wished to comment. Schmidt closed the public hearing.

Haver moved and MacMillan seconded a motion to approve Ordinance 01, Series 2021. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**2) Ordinance No. 2, Series 2021 - An Ordinance of the Crested Butte Town Council Approving the Lease of 308 3<sup>rd</sup> Street Unit K (a Town owned property) to Artists of Crested Butte, a Colorado Non-profit Organization.**

***Staff Contact: Finance Director Rob Zillioux***

Schmidt read the title of the ordinance. He confirmed nothing had changed since the last meeting and that proper public notice had been given. Schmidt opened the public hearing. No one from the public commented. Schmidt closed the public hearing.

Mitchell moved and Haver seconded a motion to approve Ordinance No. 2, Series 2021. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**3) Ordinance No. 3, Series 2021 - An Ordinance of the Crested Butte Town Council Approving the Academy Place Planned Unit Development (PUD) and Development Agreement and Amending the Crested Butte's Official Zone District Map for Block 36, Tract 2, Academy Place Subdivision to Create the Academy Place PUD Overlay Zone.**

***Staff Contact: Community Development Director Troy Russ***

Schmidt read the title of the ordinance. Russ acknowledged the ordinance was properly noticed; however, the staff report was inadvertently omitted from the packet. Sullivan affirmed the public notice was proper, and the Council could move forward tonight. Russ asked the Council how they wanted to proceed considering the staff report was omitted from the packet. Schmidt asked if anyone on the Council had a problem. No one voiced that they did.

Russ identified the development regulations of conditional use and planned unit development. The property being discussed was currently zoned in the Tourist (T) District. The PUD application conditional uses were a short-term rental accommodation, resident-occupied affordable housing unit, and a deed restricted owner occupied residential condominium unit. Russ pointed out the floor area ratio (FAR) and that the applicant would not be maximizing the build out. 62% of the lot would be considered open space. Russ noted the key waivers of lot size, rear setback, and parking. Russ defined short-term residential accommodation (STRA). He explained potential usages related to sales tax.

Russ recognized the lot size was a legal non-conforming use, and the applicant was not re-platting the site. There were a setback allowance and a parking waiver requested. Russ reported on details regarding the rear setback waiver. Next, Russ outlined the waiver request of parking. He explained the reasons that the waiver was considered acceptable. He acknowledged the preservation of the trees. Magner recognized the parking in the area was stressed more often than on occasion. Schmidt asked about traffic in the alley. Staff recommended the alley remain a two-way. Russ outlined PUD review criteria and PUD conditions of approval.

Magner asked about the public space located within the site, which Russ reviewed. She asked how the public would know the space was available to the public. Gary Hartman was on Zoom representing the applicant. He explained there would be way-finding signs. MacMillan wondered if future owners of the units would be open to uses, including usage by school children. Hartman stated the space was intended to be passive space. Dujardin questioned ADA accessibility. The discussion turned to the conditions and uses of the area seasonally. Magner brought up the tree ordinance in the Town Code. Green read from the Code. Magner wanted to make it clear that one cannot just remove mature trees because one wants to. Haver confirmed that open space and public space were different. The discussion then focused on FAR and parking. Mitchell asked about the setback location and whether parking was considered.

Bob Brotherton, representing the applicant, spoke regarding ownership. The cottage units were intended to be investment properties that would be run like a hotel. MacMillan was trying to get a feel for the type of person who would own a unit. Merrill saw a benefit that families could potentially be there, compared to a hotel.

Hartman touched on the two deviations from the zoning. He focused on details regarding the rear setback and the parking reduction. Hartman reported that BOZAR felt like the parking reduction was a good idea for the preservation of the trees and the public park. Hartman recognized the density was less than what was allowed. He showed the project site and explained the neighborhood context. Hartman outlined benefits the project would provide to the public. Mitchell asked how many trees would be chopped down. Hartman stated they were primarily concerned with the mature evergreens around the property.

Schmidt confirmed the public hearing was noticed properly. He asked for comments from the public.

Kent Cowherd

- He supported the project, after initially being skeptical.
- He believed not maxing out the building area was a good thing.
- Many more units could have been built.
- The project would provide a community room to the public at no charge.
- The project would be continuously maintained in good condition.
- A hotel, motel, or lodge would be permitted, and this project was on a smaller scale.

Mitchell asked about a deed restriction for the long-term housing for locals.

The public hearing was closed.

Schmidt assumed there would be a HOA, and he asked about the plowing of the alley. Dujardin questioned how hard it would be to convert the STRA into deed restricted long-term housing. Russ explained it would involve a PUD amendment because it would be a conditional use that would go to Council.

Haver moved and Mitchell seconded a motion to approve Ordinance No. 3, Series 2021 with the stipulations drawn out by the Staff. A roll call vote was taken with all voting, "Yes," except for Dujardin, who voted, "No." **Motion passed.**

## **NEW BUSINESS**

### **1) 2020 Financial Update.**

***Staff Contact: Finance Director Rob Zillioux***

Zillioux described the second half of the year as remarkable. Zillioux explained Town benefitted from the terrific outdoor environment. Bars and restaurants as a category suffered the most; however, businesses that embraced the Elk Avenue one-way and restrictions did very well. County sales tax was tracking 7% below, which was on a cash basis and delayed. He expected the final County numbers to be in line with Town's. The cigarette and nicotine tax had been helpful for community non-profits. The STR excise tax boomed, particularly in the second half of the year. Zillioux showed a slide reflecting the real estate transfer tax by month.

Zillioux moved on to reporting on expenses. He summarized the General Fund expenses. Then, he focused on the Sewer and Water Fund. Zillioux pointed out grants the Town did not receive, as he summarized the Capital Fund. Zillioux showed a slide on the Street and Alley Fund, the Affordable Housing Fund, and a slide with the debt schedule.

Zillioux's recommendations were to establish a fund of \$2M in anticipation of removing Red Lady mining rights and to set aside \$50,000 of the nicotine tax collections for mental health, addiction help, and related actions. Mitchell supported the nicotine tax going towards mental health. Schmidt liked both recommendations. Haver asked where from the \$2M would come, and MacDonald explained.

### **2) Consideration of Recommendations from the Black Lives Matter Community Coalition.**

***Staff Contact: Town Manager Dara MacDonald***

MacDonald reported the Town received additional requests from the Black Lives Matter Community Coalition Executive Board (BLMCC). The Executive Board wanted to go back to review existing procedures in the Marshal's Office. MacDonald addressed specific sections of the Marshal's Office mission statement and the code of conduct. MacDonald recognized the Code of Ethics statement. The Marshals' standard operating procedures (SOPs) went farther than what was expected of typical Town employees. MacDonald continued to explain that the Town's Marshals have long had a complaint process in place. She explained the Marshals would take first stab at any policy; it would be talked about internally; and then reviewed by Employers Council and CIRSA. The draft policy that was attached and in the packet was still a draft.

MacDonald reviewed recommendations submitted by the BLMCC. She acknowledged that Laird Cagan and Andrea Schultz, from BLMCC, were on Zoom. MacDonald began

with the recommendation from the committee that all written complaints against the CB Marshal's Department be reviewed by Human Resources, and if warranted, investigated. She explained Staff's recommendation that allegations regarding misconduct must be forwarded to Human Resources. She reminded that the Town Manager was the personnel director. Human Resources would not be an entity that would investigate allegations. Staff was proposing that Human Resources would be looped in, and they would follow the procedure laid out in the SOP.

The second request from the BLMCC was that the Human Resources Department (HR) would evaluate all oral complaints against the CB Marshal's Department. Those alleging racial bias would be referred to HR. The third recommendation was that a summary of all complaints against the Marshal's Department should be provided monthly to the Town Council. The fourth recommendation was related to the complaint form. The BLMCC asked for the word, compliment, to be removed from the form. The next request was that the complaint form would state that the complainant would remain anonymous except when necessary to reveal the complainant's name. There were a number of other changes requested to the complaint form that were listed with explanations in the staff report.

Reily stated he had not received any allegations of misconduct since he had been Chief. Reily explained that nothing restricted anyone from making complaints to anyone. Reily acknowledged the Marshals received service complaints all of the time. Dujardin asked for clarification. He thought the tone of the presentation seemed defensive. MacDonald explained that with the SOPs and structure of the Town, there were sufficient review mechanisms in place. There were plenty of opportunities for making sure something was being investigated properly. The guardrails were in place. Magner asked why there was opposition to additional guardrails. MacDonald explained the reasoning behind the Staff recommendation she made. She questioned whether the benefits outweighed the human cost to the Marshal's Office. She stated there were so many methods for people to complain. Merrill said she would like to address to figure out a win-win and not create another problem within the Staff and community.

Cagan stated there was a potential problem and problems nation-wide. Their approach was to prevent future problems. Their recommendations submitted in January were not specific enough. They tried to make more specific recommendations now, in order to prevent problems. They thought it was a mistake to have Marshals investigating themselves. They talked only about complaints and not misconduct. Their recommendations had to do with any complaints in order to prevent problems. Mitchell supported the Staff and MacDonald. She thought they really needed to engage other policing entities, and she felt they were being singled out. Dujardin was not sure the Council looked at the recommendations simply, without looking at the staff report. Magner identified it was the Crested Butte Town Council dealing with the Crested Butte Marshal's Office. Schultz confirmed their intention was not to disparage the Marshal's Office. Schultz brought the discussion back to the inception of the BLMCC. They were saying the complaint process needed to change. Schultz thought it was time to take a step back to do things differently. Their reason for requesting HR involvement was to provide

an unbiased third party to investigate. Schultz told the Council the people of color in the community did not feel they could call Reily or MacDonald.

MacDonald clarified the difference between service complaints and complaints of misconduct. She confirmed that a complaint of discrimination would go to HR. Magner explained the committee's differentiation between written versus oral complaints and service versus misconduct complaints. HR, as the gatekeeper, should determine where the complaint should go. The BLMCC would like to see a different body decide whether the complaint should be kicked or not. MacDonald acknowledged a complaint was a bigger category, and within the category, there were service complaints and complaints of misconduct. Magner reiterated a written complaint should go to HR. MacDonald pointed out there were many avenues for complaints. Reily added that all forms on the website were directed to HR. Furthermore, he pointed out the written complaint forms had instructions to be returned to HR. Reily said they would, to a certain extent, be police officers policing themselves. If a person truly felt his or her complaint was not being handled correctly, he or she could go the Town Manager, or the Attorney General, or CBI. There were many avenues people could take. Schultz identified the intention was to make it safe, easy, and transparent at the community level.

Reily affirmed the original changes recommended by the BLMCC were made in January. Magner said they went through number one and number two under discussion in the staff report. Magner wanted confirmation that every single written complaint went to HR. MacDonald said that would be a change to SOPs as they were drafted. MacDonald defined complaint from the SOPs. MacDonald affirmed any allegation about the employee and the job the employee did, would go to HR. Mitchell recommended they change the SOPs, so all written complaints were sent to HR. MacDonald explained, regardless of how the complaint was received, if it involved discrimination, the complaint would go to HR. Magner thought it was relatively simple that all written complaints and oral complaints alleging racial bias went to HR.

The Council discussed continuing the discussion to another meeting. Schmidt asked for a motion to continue the discussion at the next meeting. Cagan thought they resolved the issues after the January 4<sup>th</sup> meeting. He felt they were mostly in agreement and could reach resolution quickly by talking offline. Dujardin and Schultz suggested Schmidt open the meeting to public comment. Schmidt asked for comments from the public.

Chloe Bowman

- She thought people were struggling to understand because they were used to Crested Butte being a small town.
- She mentioned that there were people that did not have the connections to speak to the Chief Marshal and Town Manager.
- They were seeking channels of clarity for people that did not have privileges.
- Prevention was better than trying to fix mistakes later on.
- She wanted to remind everyone that the efforts were being done in the best interest of the community.

Dujardin moved and MacMillan seconded a motion to continue this conversation to the next Town Council meeting. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**3) Ordinance No. 4, Series 2021 - An Ordinance of the Crested Butte Town Council Approving the Lease of Unit A (Located in the Upper Level of the Chamber of Commerce Visitors Center - A Town Owned Building) Located at 601 Elk Avenue to West Elk Soccer Association.**

***Staff Contact: Finance Director Rob Zillioux***

Schmidt read the title of the ordinance.

Mitchell moved and Dujardin seconded a motion to set Ordinance No. 4, Series 2021 for public hearing at the next meeting. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**4) Ordinance No. 5, Series 2021 - An Ordinance of the Crested Butte Town Council Amending the Crested Butte Municipal Code: Chapter 18, Article 4, Section 18-7-20, Adopting by Reference the 2018 Edition of the International Fuel Gas Code (IFGC).**

***Staff Contact: Community Development Director Troy Russ***

Schmidt read the title of the ordinance.

Magner moved and Mitchell seconded a motion to set Ordinance No. 5, Series 2021 for public hearing at the next meeting. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**5) Incorporation into the Town Council Handbook a Procedure for Appointing a Town Council Member in the Event of a Mid-term Vacancy.**

***Staff Contact: Town Clerk Lynelle Stanford***

Schmidt described the language as clear, and it set the procedure for guidance in the future. Haver thought the process worked well, and he appreciated it. MacMillan informed the Council that ranked choice voting was becoming popular and could make the process cleaner. MacMillan explained his idea.

Mitchell moved and Haver seconded a motion for incorporation into the Town Council Handbook a procedure for appointing a Town Council member in the event of a mid-term vacancy. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**6) Appointment to the Valley Housing Fund.**

***Staff Contact: Town Clerk Lynelle Stanford***



Magner clarified that she did not step down from the Valley Housing Fund Board. She understood from the work session that they decided that Council members would not serve on non-government boards. She was waiting for the formal Council decision before she officially resigned from the Valley Housing Fund. Magner did not want to be precluded from Town Council discussions regarding affordable housing. She asked if there was a decision that the Valley Housing Fund would be an exception to the policy.

Schmidt recognized that if no one on the Council wanted to serve, they should advertise for an appointee. He pointed out the communication between the appointee and the Council had to go both ways. MacMillan shared Magner's opinion that he would not like to have to recuse from a vote. The communication did not outweigh his ability to vote, which was important to him. MacDonald agreed to advertise to the public for someone who would be interested in the appointment.

#### **DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE**

- Monday, March 15, 2021 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, April 5, 2021 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, April 19, 2021 - 6:00PM Work Session - 7:00PM Regular Council

#### **EXECUTIVE SESSION**

Schmidt read the reason for Executive Session: for a conference with the Town Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) regarding Mt. Emmons mining.

Dujardin moved and Haver seconded a motion to go into Executive Session. A roll call vote was taken with all voting, "Yes," except Mitchell was briefly absent and did not vote. **Motion passed unanimously.**

Magner disconnected from Zoom.

The Council went into Executive Session at 10:41PM. The Council returned to open meeting at 11:11PM. Mayor Schmidt made the required announcement upon returning to open meeting.

**ADJOURNMENT**

Mayor Schmidt adjourned the meeting at 11:12PM.

  
James A. Schmidt, Mayor

  
Lynelle Stanford, Town Clerk

(SEAL)

